

DELAWARE INDIANS.

APRIL 24, 1884.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. STEVENS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 5990.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5990) to pay the Delaware Indians the value of certain lands in Kansas, in compliance with treaty stipulations, have had the same under consideration, and report:

By the treaty of September 24, 1829, between the United States and the Delaware Indians, it was agreed by the parties—

That the country in the fork of the Kansas and Missouri Rivers, extending up the Kansas River to the Kansas line, and up the Missouri River to Camp Leavenworth, and thence by a line drawn westwardly, leaving a space of 10 miles wide north of the Kansas boundary line for an outlet, shall be conveyed and forever secured by the United States to the Delaware Nation as their permanent residence; and the United States hereby pledges the faith of the Government to guarantee to the Delaware Nation forever the quiet and peaceable possession and undisturbed enjoyment of the same against the claims and assaults of all and every people whatever.

By the first article of the treaty of May 6, 1854, between the same parties, a permanent reservation was set aside for the Delawares out of the lands guaranteed to them by the treaty of 1829, and the remainder of their lands, with certain exceptions, were ceded to the United States. The second article of said treaty provided that the lands thus ceded should be surveyed and sold by the United States for the benefit of the Delawares.

Article 13 of said treaty provided that the Christian Indians who were living on the ceded lands should have the right to purchase four sections of the land by paying \$2.50 per acre to the Delawares.

Article 14 provided that the United States bound herself to protect the Delawares in all their rights.

But it was ascertained that on June 3, 1825, the United States had made a treaty with the Kansas Nation of Indians, whereby twenty-three sections, comprising 14,720 acres of the best lands guaranteed to the Delawares by the treaty of 1829, had been set apart and guaranteed to the Kansas Indians previous to the Delaware treaty of 1829, and the Delawares were thus deprived of that quantity of the lands guaranteed to them by the United States.

By the treaty of May 30, 1860, eighty acres to each member of the tribe was to be allotted in severalty out of their reservation, and the remainder sold for their benefit to the Leavenworth, Pawnee and Western Railroad Company upon certain conditions.

The sixth article of said treaty, among other things, provides:

It is further understood that, at the treaty between the Delawares and the United States, made September 24, 1829, the boundary of the reservation then set apart for them included the half-breed Kansas lands, but it afterwards proved that the United States had previously set apart these lands for the half-breed Kaws, and by that means they have been kept out of the use and benefit of said lands; it is therefore hereby agreed that a fair valuation shall be made by the United States upon such lands, under the direction of the Secretary of the Interior, and the amount of said valuation shall be paid the Delawares.

But this provision of the treaty was never carried out or complied with by the United States.

By the treaty of July 4, 1866, the Delawares ceded the remainder of their lands in Kansas to the United States, with certain exceptions, and the second article of said treaty authorized the Secretary of the Interior to sell them to the Missouri River Railroad Company, or other responsible parties, "for a price not less than \$2.50 per acre, exclusive of improvements," for the benefit of the Delawares. The United States guaranteed the payments for the full value of the lands.

The fourth article of said treaty provided that the United States should sell to the Delawares a tract of land in the Indian country, to be paid for out of the proceeds of the sales of the Delaware lands in Kansas.

Article 11 provides:

The Delawares acknowledge their dependence upon the United States, and again renew their pledges of devotion to the Government thereof, and ask its protection; and the United States agree to protect, preserve, and defend them in all their just rights.

The fourteenth article provides that, in accordance with the general provisions of the sixth article of the Delaware treaty of May 30, 1860, which have not yet been fulfilled—

The Delawares shall receive, without cost, from the United States, land included within their new reservation to the amount of twenty-three sections, in place of the twenty-three sections of half-breed Kaw lands, referred to in said sixth section of the treaty of 1860.

But the United States neither purchased any lands for the Delawares, nor ever made any provision for giving the Delawares the twenty-three sections referred to.

By the fifteenth article of the treaty of July 19, 1866, between the Cherokee Nation and the United States, it was agreed that "the United States may settle any civilized Indians friendly with the Cherokees and adjacent tribes, within the Cherokee country, on unoccupied lands east of 96 degrees, on such terms as may be agreed upon by any such tribe and the Cherokees, subject to the approval of the President of the United States."

Under the provisions of the above treaty an agreement was entered into on April 8, 1867, whereby the Cherokees agreed to sell to the Delawares within the territory named, a quantity of land, in the aggregate equal to 160 acres for each individual of the Delaware tribe who had been, or might be, within one month, enrolled for removal to the Indian Territory, for which the Delawares agreed to pay \$1 per acre, to be paid out of the funds of the Delawares. This agreement was approved by the President April 11, 1867. On May 13, 1869, the Secretary of the Interior transferred from the Delaware general trust fund to the Cherokee funds the sum of \$157,600, in payment for these lands, as will appear from the report of the Commissioner of Indian Affairs for the year 1869, page 484.

In this transaction no account was taken of the said twenty-three sections of land and its value, nor have the Delawares ever received any compensation whatever for the same.

Under the provision of the treaty of 1866, the Secretary of the Interior sold of the Delaware lands in Kansas, to the Missouri River Railroad Company, 92,598.33 acres, for which the said railroad company paid, on October 18, 1867, to the Secretary of the Interior, for the use and benefit of the Delawares, the sum of \$231,495.83, the same being at the rate of \$2.50 per acre. (See Report of the Commissioner of Indian Affairs for 1867, pp. 358, 359.)

The 14,720 acres referred to were worth fully as much, or more, per acre as were the lands sold to the Missouri River Railroad Company in October 1867, or those sold to the Christian Indians under the treaty of 1854. They were worth fully the sum of \$36,800, or \$2.50 per acre, at that time.

The United States insists upon a strict compliance of their treaty obligations on the part of the Indians, and yet in the case of this friendly and civilized tribe, it has disregarded its solemn contracts for nearly a quarter of a century. This money is due the Delawares and ought to have been paid many years ago.

Good faith demands its payment, and the passage of the bill is recommended.

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In this transaction no account was taken of the eight twenty-three sections of land and its value was given the Delaware and received any compensation whatever for the same.

Under the provisions of the treaty of 1802 the Secretary of the Interior sold of the Delaware lands in Kansas to the Missouri River Land and Company, \$1,250,000 acres for which the said company paid \$1,250,000. On October 15, 1857, the Secretary of the Interior for the sale and benefit of the Delaware the sum of \$250,000, the same being at the rate of \$100 per acre. The report of the Commissioner of Indian Affairs for 1857, pp. 324, 325.

The 14,120 acres returned to your committee as such or more, but were as were the lands sold to the Missouri River Land and Company in 1857. The same were sold to the Christian Indians under the treaty of 1854. They were worth with the sum of \$1,250,000 or \$250 per acre, at that time.

The United States records show a strict compliance of their treaty obligations as the part of the Indians and not in the case of the Delaware and Christian Indians. It was established the common contract for the sale of a century. The matter is due the Indians and ought to have been paid many years ago.

Good faith demands its payment, and the passage of the bill is an essential.